

REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

Since the present amendment raises no new issues for consideration and, in any event, places the present application in better condition for consideration on appeal, it is respectfully requested that this amendment be entered under 37 CFR 1.116 in response to the last Office Action dated May 27, 2003, which made final rejections as to the pending claims.

A. STATUS OF THE CLAIMS

As a result of the present amendment, claims 1-7 and 9-16 are presented in the case for continued prosecution. No new matter has been added.

B. DOUBLE PATENTING

The Examiner has objected to claim 11 under 37 CFR 1.75 stating that it is a substantial duplicate of claim 1. In response, Applicants have amended claims 1 and 11, thereby rendering this objection moot. Claim 1 now specifically calls for the textile to be a raw material or semi-manufactured product, while claim 11 now specifically requires the fructan polycarboxylic acid to be carboxymethyl inulin.

C. REJECTIONS UNDER 35 U.S.C. §103

At page 2 of the Office Action, the Examiner has again rejected the subject matter of claims 1-7 and 9-16 as being unpatentable over Besemer et al., U.S. Patent No. 5,326,864. The Examiner has taken the position that the polysaccharide based polycarboxy compounds prepared from inulin perform the same task as that achieved by the present invention and would remove contaminants from textiles. The Examiner has also taken the position that the same claims are unpatentable in view of Verraest et al., US 5,777,090. In this rejection, the Examiner has taken the position that the carboxymethyl inulin of '090 patent would remove contaminants from textile as they are designed for use as laundry detergents.

Applicants once again respectfully urge that a proper *prima facie* case of obviousness has not been made by the Examiner. A *prima facie* case of obviousness is established only when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. The art must suggest how to apply its teachings to the specifically claimed invention.

In this case, it is urged that neither Besemer, U.S. Patent No. 5,326,864, nor Verraest, U.S. Patent No. 5,777,090 disclose calcium complexing polycarboxyinulin compounds and methods of preparing the same. The Besemer ('864) patent refers to the possibility of incorporating the disclosed inulin derivatives in laundry detergent. Laundry, by definition, is something that is washed, for example, in the household. It is an end product and not a raw material or a semimanufactured product as required by claim 1. There is no disclosure or suggestion in the Besemer ('864) patent which refers to the treatment of a raw material or semimanufactured product. Furthermore, with regard to claim 11, the fructan polycarboxylic acid has been limited to carboxymethyl inulin. The Besemer ('864) patent does not disclose nor teach this derivative of inulin.

The Verraest '090 patent has a similar disclosure to the Besemer ('864) patent and teaches a method of preparing carboxymethyl inulin derivatives. There is no disclosure, however, relating to the use of carboxymethyl inulin in methods for the specific purposes required by claim 1 or claim 11. Column 1, lines 28-30 of the Verraest ('090) patent referred to by the Examiner on page 3 (section 4) of the Office Action does not relate to the proposed invention in the reference. Rather, it pertains to the prior art. The Examiner is directed to the passage that begins at line 25 of column 1 of the Verraest ('090) patent:

"Known examples of carboxymethylated products are carboxymethyl cellulose (CMC) and carboxymethyl sucrose (CMSU). The former product finds application in detergent compositions as an anti-redisposition agent and as a cobuilder to prevent calcium carbonate scale formation which occurs during the washing of laundry..."

Thus, the passage relied on by the Examiner teaches only that laundry detergents can include carboxymethylcellulose and carboxymethyl sucrose, not carboxymethyl inulin. There is nothing in the '090 patent which links carboxymethyl inulin to any use in a detergent composition, let

alone one which would be used in methods of treatment of a raw material or a semimanufactured product.

In view of the above arguments and further in view of the amendments to the claims, it is respectfully submitted that Applicants have obviated the rejections under 35 U.S.C. § 103 and that no *prima facie* case of obviousness has been established for the claimed invention. Applicants have shown that each of the references is not the invention and each reference does not suggest the invention.

Reconsideration and removal of the rejections is therefore proper and requested.

D. CONCLUSION

This response is being filed within the statutory time limit. No fees are believed to be required. If, on the other hand, it is determined that any fees are due or any overpayment has been made, the Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

In view of the actions taken and arguments presented, it is respectfully submitted that the present application is now in condition for allowance.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that this Amendment is
being facsimile transmitted to the
Commissioner of Patents on the
date shown below.

August 29, 2003

MUSERLIAN, LUCAS & MERCANTI, LLP

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